

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff

v.

JERMAINE SMITH,

Defendant

Case No.: 2:12-cr-00004-APG-GWF

**ORDER DENYING MOTION FOR
COMPASSIONATE RELEASE**

[ECF No. 1667]

Defendant Jermaine Smith moves for compassionate release due to the COVID-19 pandemic. He states that he suffers from bronchitis, which “would be a disaster for” him if he contracts the virus. ECF No. 1667 at 1. Smith did not attach to his motion any medical records, nor did he state where he is being held and whether any COVID-19 cases have been reported there. I granted the parties’ stipulation to continue the briefing on the motion so Smith’s counsel could obtain and review his medical records. ECF No. 1671. Subsequently, Smith’s counsel reported that no supplementation is necessary. ECF No. 1672.

The compassionate-release provision of 18 U.S.C. § 3582(c)(1)(A)(i), as amended by the First Step Act of 2018,¹ allows a judge to reduce a sentence based on “extraordinary and compelling reasons.”² The judge must consider the factors in 18 U.S.C. § 3553(a) “to the extent that they are applicable,” and any sentence reduction must be “consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A)(i).

Smith has not presented extraordinary or compelling reasons to justify his early release. He states only that he suffers from bronchitis and could be severely harmed by COVID-19. No

¹ The First Step Act of 2018, § 603(b), Pub. L. 115-391, 132 Stat. 5194, 5239 (Dec. 21, 2018).

² Smith attaches to his motion the request he submitted to the warden on March 18, 2020, more than 30 days before he filed his motion.

1 doubt COVID-19 is a danger to inmates in the prison system and the community at large. The
2 Bureau of Prisons (BoP) is taking steps to prevent the introduction and spread of the virus in its
3 facilities. That is no guarantee that Smith's facility will remain COVID-19 free. But releasing
4 him will not guarantee his safety either, as he could be exposed to the virus from his family
5 members or others he comes into contact with through his daily activities. If Smith is entitled to
6 compassionate release, then a large majority of prisoners in the BoP's system would be similarly
7 entitled.

8 I THEREFORE ORDER that defendant Jermaine Smith's motion for compassionate
9 release **(ECF No. 1667) is DENIED.**

10 DATED this 8th day of June, 2020.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE